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Eugene F. Diamond

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Karl Brandt in the Dock

by

Eugene F. Diamond, M.D.

The author is professor of pediatrics, Loyola University, Stritch School of Medicine and a contributing editor of The Linacre Quarterly. He is the Director of the Linacre Institute, Chicago, IL.

If the physician presumes to take into account whether life has value or not, the consequences are boundless and the physician becomes the most dangerous man in the state.

— Christof Hufeland, 1825

It is generally assumed that the German euthanasia movement actually had its roots in the Weimar Republic prior to the Third Reich, with the publication in 1920 of the seminal book *The Release of the Destruction of Life Unworthy to be Lived*, by Alfred Hoche, a psychiatrist, and Karl Binding, a lawyer. These men were professors of reputation and importance. Their thesis was that the medical profession should participate not only in the furtherance of health but also, in some instances, in death-making as well. In a carefully reasoned argument, defining their terms precisely, their analysis concluded that certain people should be exterminated for "racially hygienic purposes." The "Release" in their title was the legalization of what they saw as logical extension of the role of the physician, that is, the painless and expertly administered killing of the retarded, deformed, terminally ill or severely damaged by illness or trauma. Binding and Hoche were widely read and vigorously discussed. One of their readers was the young Adolph Hitler, well-read on the subjects of monism and eugenics. Hitler's name was later allowed to be used in the promotion of Hoche's books.

There were numerous other German Social Darwinists actively promoting similar programs, such as Ernst Haeckle, Heinrich Ziegler and Ernst Mann. Ziegler's book won a prize offered by the Krupp Munitions works for the best application of Social Darwinist principles to state politics. Social Darwinists in the United States who became aware of the

program through such publications as William Shirer's *Berlin Diary*, published in 1941, were generally not condemnatory of the German program. It was praised in the *Journal of Heredity* in 1934, evaluated sympathetically in an article in the *American Journal of Psychiatry* in 1942, and reported on nonjudgmentally by the American Medical Association in an editorial in *JAMA* that recommended withholding judgment until the experiment was completed.

Because German medicine in the 1930s was considered to be the foremost in the world, the AMA maintained a correspondent in Germany and many American physicians went to Germany for postgraduate training. It is important to remember that those in academic medicine, the esteemed Herr Professors of the medical college, were salaried by the German state and beholden to it for support of programs and research. With the ascendancy of the Third Reich, it was estimated that about 50% of German physicians became members of the Nazi party, the highest proportion of any profession.

Dr. Karl Brandt became acquainted with Hitler literally by accident. He was the first physician on the scene when Hitler's niece was injured in an auto accident. It is not surprising that Hitler became interested in Brandt's career since he was an imposing personage both intellectually and physically. He became Hitler's personal physician at age 29 and ultimately Reich Commissioner. He was well-liked and trusted by the Führer and he eventually became supreme medical authority in the Third Reich, subordinate only to Hitler himself. Brandt was known early in his career as an idealist and of a philosophical bent. He was acquainted with his fellow Alsatian, Dr. Albert Schweitzer, who was to win the Nobel Peace Prize for his work as a medical missionary in Lambaréné, in the French Congo. In medical school, Brandt intended to join the great theologian-musician-missionary in his practice in the Congo. He was deterred from doing so because, as an Alsatian by birth, he could have been drafted into the French army had he moved to the French colony.

In his final statement from the dock at Nuremberg, in the final summation of his defense by the estimable attorney Robert Servatius and in the report of his theological debates with the renowned Pastor Bodelschwingh, the person of Karl Brandt emerges as someone relevant to the modern physician in the post-Christian era. To say this is neither to minimize the enormity of the German euthanasia movement nor to trivialize Brandt's complicity and centrality in initiating, if not promoting, the killings. In an era where physicians perform and condone mass killings by abortion (even the horrendous partial-birth abortions), and where physicians in Holland perpetrate mercy killing even without the permission of the victims, and where American physicians participate in and/or sanction assisted suicide; Brandt's usage and personal philosophy is less in

contrast to that of his professional peers, internationally. Once the society, including the medical profession, rejects the transcendental value of human life made in the image and likeness of God, the ethical stance of the individual physician is destabilized.

The Pivotal Event

The single crucial event that propelled Brandt into the forefront of the euthanasia movement occurred in 1937 with the Baby Knauer case. The father of the Knauer child, who lived in Leipzig, petitioned Hitler to allow the killing of his deformed child. Hitler sent Brandt to Leipzig to discuss the situation with Baby Knauer's physicians. When asked at Nuremberg, "What did Hitler order you to do?", his response was limited and precise: "He ordered me to talk to the physicians who were taking care of the child to find out whether the father's statements were true. If they were correct, then I was to inform the attending physicians that they could carry out euthanasia. The important thing was that the parents should not have the impression that they themselves were responsible for the death of the child."

Then came the key sentence: "I was further ordered to state that if these physicians became involved in some legal proceedings because of this measure, these proceedings would be quashed by Hitler." This "release" proposed by Binding and Hoche which was the immunity from prosecution, freed the doctors from their usual constraints with horrible results. Brandt's visit to Leipzig on behalf of Hitler and in response to the situation of the Knauer baby was the signal event and the opening wedge of a national slaughter. A committee was set up consisting of Hans Heinze, a psychiatrist and two pediatricians, Werner Catel and Ernst Wentzler to screen required reports of all handicapped children to the Reich Committee for scientific research of serious illnesses of hereditary origin. If, and only if, all three physicians concurred, a certificate would be issued to authorize the killing of the deformed pediatric patient. This "system" was to result in the extermination of tens of thousands of children and adults, which, as in the separate case of the Jewish holocaust, required the participation and activation by doctors.

This program, called Action-4, was soon out of control and the so-called "screening" was in effect, an extermination program for all "untermenshen," or useless eaters. Protests came primarily from religious sources. Pastor Gerhard Braune, vice president of Welfare Agencies for the Protestant Churches, sent a long memo to the Chancellory. This was of the nature of an informative report based on the supposition that what was happening was not known by the government. Braune was arrested by

Heydrich and imprisoned, even though the Nazis did not admit that the program existed.

The most dramatic and widely disseminated protest came in the form of a series of sermons by Clemons Cardinal Von Galen, Archbishop of Munster. These sermons were scathing and condemnatory and details were read in all churches in June, 1941. Von Galen was threatened and one of his churches was bombed but he was not arrested or imprisoned because of his esteem in the German populace. Von Preysing, the Bishop of Berlin, informed Pius XII of the euthanasia program. The Vatican issued a proclamation on December 6, 1940, condemning mercy killing. The Pope spoke out on euthanasia again, quite forcefully, in his 1943 encyclical *Mystici Corporis*.

The medical profession made no organized protest. They cooperated in the main reporting process that led to the rounding up of the victims but the doctors went along, aside from isolated instances of a refusal to participate on the part of individual physicians.

Brandt, in his defense, stated that no member of the medical profession was forced to participate if he had objections. All that was done was by "scientists" acting in the name of science.

In the United States, in 1972, the famous "Baby Doe" case dramatically revealed the dirty little secret that the American medical profession was participating in activities that differed in degree rather than in principle from that in Germany. Corrective surgery was being withheld from children with Down Syndrome and intestinal obstruction as in the Baby Doe case at Johns Hopkins and Indianapolis, Indiana. The Baby Jane Doe case at Stony Brook illustrated a similar denial of treatment for infants with meningomyelocele and this was confirmed in a larger program at the University of Oklahoma published in the official journal of the American Academy of Pediatrics. Duff and Campbell reported in the *New England Journal of Medicine* of "selective non-treatment" of 43 infants. All of these cases indicated that eugenic medicine was widespread in children's hospitals in the United States. When the Baby Doe Regulations put in place by Surgeon General Koop eventually corrected the situation, the medical profession, particularly in academic circles, protested and lobbied vigorously against the rules to protect deformed children.

It might be alleged that there was a moral difference between withholding surgical care and direct killing acts. The intention of each was the death of the child, however, with starvation as the usual cause of death in both instances.

The willingness of the medical profession to duplicate directly the killing activity of the German euthanasia movement has been dramatically illustrated in the Dutch euthanasia movement. Although, under the Dutch

system, the patient was supposed to apply for euthanasia, the number of patients killed was three times the number of applicants, which illustrates that most of the patients died because a third party wanted them dead, either a relative or the doctor himself. The experience in the Third Reich was prefigurative of what has transpired in Holland. That is, a system of controls and medical indications cannot survive because the moral climate created by the legalization of doctors killing patients will inevitably expand out of control.

Brandt emphasizes in his own defense that it was wartime and he was obeying orders. Servatious, in his final summation, points out that although there was no specific law directing compliance with the killing system, it was an unavoidable reality that a directive from Hitler in the German dictatorship was tantamount to a law requiring obedience.

American physicians have demonstrated a proclivity to equate what is legal with what is ethical. In 1970, the AMA changed its century-old opposition to abortion because of a resolution from the New York delegation protesting that abortion was legal in New York but in violation of the AMA Code of Ethics. The House of Delegates passed a resolution that in those states where abortion was legal, it was also ethical. The AMA thereby discarded the notion that a learned profession should have its own independent code of ethics and made a Faustian bargain by which the law became the basis for medical ethics. The AMA thus duplicated the system defended at the Nuremberg doctor trials that doctors involved in killing acts were exculpated if they were obeying the law.

Brandt's statement from the dock is often eloquent and sincere if not always persuasive. Brandt firmly believed that euthanasia could be justified ethically and, during the war, he debated this position carefully and in-depth with Pastor Fredich Von Bodelschwingh of Bethel, a famous Protestant religious leader and head of an institution for epileptics in Bethel. Brandt considered the motive of pity for the patient to be the decisive one. He declares his "love for mankind" and states that as a doctor, unlike a clergyman or jurist, he sees the "law of nature as living the law of reason." He does not apologize for his belief that euthanasia was "right." "Death can mean deliverance," he declares. "Death is life—just as much as birth. It was never meant to be murder." This position was not persuasive with the tribunal but it can hardly be said to be unique or even in contrast with that of many medical authorities. In the present debates about assisted nutrition and hydration, the declaration that starvation can be justified out of pity for the incapacitated patient is a recurring theme. Even if the patient is not dying, if he is, for example, in a persistent vegetative state, withholding feedings is said to be in his best interest. Life without "cognitive and affective function" is said to be a "life unworthy to be lived."

It is an inescapable reality that euthanasia was not against the law in Germany. Brandt was tried not by a German court but by an international tribunal made up by victorious nations. If the Germans had won the war, Brandt would not have been hung and the "crimes against humanity", which were capital crimes for Nazi war criminals, would not have been prosecuted. Neither can it be said that killing Jews was truly "against the law" in the Third Reich. Those who base their defense of abortion on its legality should remember history. In the United States, slavery, apartheid, and lynching of black people in the South have all known the de facto protection of the law.

There is logic to Brandt's statement in the dock, which only ceases to sustain itself in a society where human life is sacred.

The Final Statement of Defendant Karl Brandt, July 19, 1947

"There is a word which seems so simple—order; and how colossal are its implications. How immeasurable are the conflicts which hide behind the word "obey." Both affected me, obey and order, and both imply responsibility. I am a doctor and on my conscience lies the responsibility of being responsible for men and for life. Quite dispassionately the prosecution has brought the charge of crime and murder and they have raised the question of my guilt. It would have no weight if friends and patients were to shield me and speak well of me, saying I had helped and I had healed. There would be many examples of my actions during danger and my readiness to help. All that is now useless. As far as I am concerned I shall not evade these charges. But the attempt to vindicate myself as a man is my duty toward all who believe in me personally, who trusted in me and who relied upon me as a man as well as a doctor and a superior.

"No matter how I was faced with the problem, I have never regarded human experiments as a matter of course, not even when no danger was entailed. But I affirm the necessity for them on grounds of reason. I know that opposition will arise. I know things that disturb the conscience of a medical man, and I know the inner distress that afflicts one when ethics of every form are decided by an order or obedience.

"It is immaterial for the experiment whether it is done with or against the will of the person concerned. For the individual the event seems senseless, just as senseless as my actions as a doctor seem when isolated. The sense lies much deeper than that. Can I, as an individual, detach myself from the community? Can I remain outside and do without it? Could I, as part of this community, evade it by saying I want to live in this community, but I don't want to make any sacrifices for it, either of body or soul? I want to keep a clear conscience. Let them see how they can get along. And yet we, that community and I, are somehow identical.

"Thus I must suffer these contradictions and bear the consequences, even if they remain incomprehensible. I must bear them as my lot in life, which allocates to me its tasks. The meaning of the motive—devotion to the community. If on its account I am guilty, then on its account I will be answerable.

"There was war. In war, efforts are all alike. Its sacrifices affect us all. They were incumbent upon me. But are those sacrifices my crime? Did I tread on the precepts of humanity and despise them? Did I pass over human beings and their lives as if they were nothing? Men will point at me and cry "euthanasia," and falsely, "the useless," "the incapable," "the worthless." But what actually happened? Did not Pastor Bodelschwingh, in the middle of his work at Bethel last year, say that I was an idealist and not a criminal? How could he say that?

"Here I am, subject of the most frightful charges, as if I had not only been a doctor, but also a man without heart or conscience. Do you think that it was a pleasure to me to receive the order to permit euthanasia? For fifteen years I had toiled at the sickbed and every patient was to me like a brother. I worried about every sick child as if it had been my own. My personal lot was a heavy one. Is that guilt?

"Was it not my first thought to limit the scope of euthanasia? Did I not, the moment I was included, try to find a limit and demand a most searching report on the incurables? Were not the appointed professors of the universities there? Who could there be who was better qualified? But I do not want to speak of these questions and of their execution. I am defending myself against the charge of inhuman conduct and base intentions. In the face of these charges I fight for my right to humane treatment! I know how complicated the problem is. With the utmost fervor I have tortured myself again and again, but no philosophy or other wisdom helped me here. There was the decree and on it there was my name. It is no good saying that I could have feigned sickness. I do not live this life of mine in order to evade fate if I meet it. And thus I assented to euthanasia. I fully realize the problem, it is as old as mankind, but it is not a crime against man or against humanity. It is pity for the incurable, literally. Here I cannot believe like a clergyman or think as a jurist. I am a doctor and I see the law of nature as being the law of reason. In my heart there is love of mankind, and so it is in my conscience. That is why I am a doctor!

"When I talked at the time to Pastor Bodelschwingh, the only serious admonisher I knew personally, it seemed at first as if our thoughts were far apart; but the longer we talked and the more we came into the open, the closer and greater became our mutual understanding. At that time we were not concerned with words. It was a struggle and a search far beyond the human sphere. When the old Pastor Bodelschwingh left me after many

hours and we shook hands, his last words were: "That was the hardest struggle of my life." For him, as well as me, that struggle remained and the problem remained, too.

"If I were to say today that I wish this problem had never come upon me, with its convulsive drama, that would be nothing but superficiality in order to make me feel more comfortable in myself. But I am living in these times and I see that they are full of antitheses. Somewhere we all must make a stand. I am fully conscious that when I said "Yes" to euthanasia I did so with the deepest conviction, just as it is my conviction today, that it was right. Death can mean deliverance. Death is life—just as much as birth. It was never meant to be murder. I bear a burden, but it is not the burden of crime. I bear this burden of mine, though with a heavy heart, as my responsibility. I stand before it, and before my conscience, as a man and as a doctor."

Afterword

In *Henry V*, by William Shakespeare, the king states, "My cause is just and honorable."

A soldier responds, "That's more than we know."

Another soldier adds, "Ay, or more than we should seek after for we know enough that we are the king's subjects; if his cause be wrong, our obedience to the king wipes the crime of it out of us."
